secret ballot of members of that branch" whereas in rule 23(a) it merely says "after secret ballot of members". On reading both the two sub-rules of rule 23, in my opinion the true interpretation is that the word "members" in rule 23(a) can only refer to members of the union, not of the executive council, otherwise it would have said so as in rule 23(b). I am further fortified in my opinion by reference to rule 19(b) which states:

"Voting shall be by secret ballot in the following case:—

(b) when the funds of this union exceeding $500 are involved in any one transaction."

and rule 15(11)(b) which says:

"Any amount involving an expenditure of more than $500 and not exceeding $5,000 shall require the sanction of the executive council."

It is clear that the secret ballot in rule 19(b) means the secret ballot of the members of the union and all that is required of the executive council is their sanction under rule 15(11)(b). My opinion also finds support in rule 30(a) where it says:

"The union shall not be dissolved, except with the consent of five-sixths of the membership of the union obtained by means of a secret ballot vote as laid down in rule 19(d)."

and it is my view that the voting by secret ballot under rule 19 means voting by members of the union unless otherwise stated.

If the appellant's contention is correct it means that the eleven words would have to be struck out of rule 23(a) as meaningless. This is against all canons of construction.

In my opinion the learned judge has not erred in coming to the decision which he did and for myself I would therefore dismiss the appeal with costs.

Wylie C.J. (Borneo): I agree with the conclusion of the Chief Justice, Malaya, that the more reasonable interpretation of rule 23(a) is that it requires a ballot to be taken of all members of the union. This conclusion follows from a consideration of all the relevant rules, and particularly rule 23(b) and rule 19(d). The language of rule 23(a) is confusing. Rule 23(b) is dealing with the same subject of levies. It is much more clearly expressed and I consider that it is more logical to give to the words in rule 23(a) "if they consider it necessary" the same meaning as the same words obviously have in rule 23(b), namely, that this phrase relates to the necessity for a levy and not to the necessity for a ballot. Similarly, rule 23(b) makes it clear that a secret ballot of members (and not officials) is intended. The reference in rule 23(a) to rule 19(d) makes it more logical to give a corresponding meaning to the word "members" in rule 23(a) than to conclude that this word refers only to members of the executive council.

It is to be noted also that rule 23(a) gives authority to impose a levy on all members and not on some members only, and all members are required to pay the levy. The levy in this case was imposed upon those who did not pay the voluntary contribution by 31st October, 1962, and it is obvious that no member who had paid his voluntary contribution, was required to pay the levy. For this reason, also, I consider that this particular levy, even if it had been otherwise properly imposed, was not within the authority given by rule 23(a). Perhaps steps could have been taken, as suggested in argument, to impose a general levy on all members and to arrange for a refund of voluntary contributions, or for them to be credited against payment of the levy. However, such steps were not taken and therefore there is no need to express any opinion on this possibility. As the matter stands, the levy was not imposed on all members.

I agree that this appeal should be dismissed with costs.

Tan Ah Tah F.J. concurred.

Appeal dismissed.

Solicitors: *David Marshall; L. A. J. Smith.*

BATCHA AMMAL v. PONNACHI

[F.C. (Thomson L.P., Barakbah C.J. (Malaya) and Tan Ah Tah F.J.) March 3, 1965]

[K.L. — Federal Court Civil Appeal No. 83 of 1964]

Practice and Procedure — Statement of claim — Amendment to — Incorporation of new cause of action.

Practice and Procedure — Further and better particulars.

A plaintiff is entitled to sue on any cause of action and should not be shut out from raising such cause of action.

The question of further and better particulars is essentially a matter of discretion and the object is to ensure that the defendant is informed with reasonable particularity as to the various matters which are alleged against him. In the present case the various transactions are identified in the particulars already supplied in accordance with the judge's order in the first place by the amount, in the second place by the date and in the third place, where this is appropriate by particulars of the appropriate invoice or cheque and accordingly the defendant has been given ample opportunity to enable her to defend and threfore that portion of the appeal should be dismissed.

FEDERAL COURT.

V. K. Palasuntharam for the appellant.

D. L. L. Pickard for the respondent.

Thomson L.P. (delivering oral judgment): I do not think it is necessary to state the circumstances in which this appeal has been brought. In the first place they are very adequately set out in the grounds of judgment which have been recorded by Ong J., and in the second place it is probably one of those cases where it is more important to set out with precision just what we are deciding rather than to elaborate the reasons upon which our decisions are based.

The appeal falls into two parts.

First of all there is an appeal against an order made on 9th September, 1964, which in effect, and in so far as it is complained of, was an order dismissing an application by the defendant that amendments to the statement of claim made in accordance with an earlier order dated 20th August, 1964, should be struck out. These amendments in effect added the cause of action of account stated to the original pleaded causes of action, that is of goods sold and delivered and money lent.

Substantially, in our view, the appeal is without merit. The plaintiff is entitled to sue on any cause of action she sees fit. Whether or not she is able in the event to make it out is irrelevant at this stage, and of course if she fails to make it out she must pay the usual penalty in the way of costs.

The appeal, however, has acquired a certain plausibility, if I may say so, because in our view the amendments to the original statement of claim were somewhat (if counsel forgive me for saying so) unskilfully drawn. We are not prepared to shut out the plaintiff from raising the cause of action of account stated and we think that it will make for economy in time and cost if we make the order on the appeal that the plaintiff be at liberty further to amend her amended statement of claim in accordance with the formula which we indicated to counsel before lunch, which in our view is an adaptation to the framework of the present case of the second alternative form given under Part 2 of Chapter 2 of Chapter A in Volume I of *Atkin's Court Forms* at page 270. I would add that if there is any difficulty of settling the formal order giving expression to what we have decided on this part of the appeal it will have to be brought before a judge to be settled.

The second part of the appeal is from another order of Ong J., dated 9th September, 1964. That was an order for further and better particulars made on an application by the defendant dated 14th August, 1964. It ordered that further particulars be supplied in the form of an account from the 25th day of February, 1959, in the manner adopted in giving previous further and better particulars, showing how a balance of $84,000 had been arrived at.

The complaint here is that the plaintiff was not ordered to give all the details which have been asked for, in particular the names of the servants or agents of the defendant firm to whom payments were alleged to have been made and goods to have been delivered.

Now, the question of further and better particulars is essentially a matter of discretion and the object is to ensure that a defendant is informed with reasonable particularity as to the various matters which are alleged against him. In the present case, the various transactions are identified in the particulars already supplied in accordance with the judge's order in the first place by the amount, in the second place by the date and in the third place, where this is appropriate, by particulars of the appropriate invoice or cheque.

In the circumstances we think that the defendant has been given ample opportunity to enable her to defend and we therefore dismiss that portion of the appeal.

As regards costs we think that substantial justice will best be done if we order costs in the cause.

Barakbah C.J. (Malaya) and **Tan Ah Tah F.J.** concurred.

Appeal dismissed costs in the cause.